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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/361,849	07/27/1999	ROBERT SWENSEN	804 OP 710	6048

7590 09/09/2003

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EXAMINER

EASTHOM, KARL D

ART UNIT	PAPER NUMBER
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2832

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

09/361,849

Applicant(s)

SWENSEN ET AL.

Examiner

Karl D Easthom

Art Unit

2832

-- The MAILING DATE of this c mmunication appears on th c ver sheet with th corresp ndence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2003 and 13 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-9 and 11-24 is/are pending in the application.
- 4a) Of the above claim(s) 12-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-9,23 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 7-9 and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Barrett. Barrett discloses the claimed invention at Fig. 17. Claim 1 is disclosed as follows: first and second polymer PTC elements 116/124 and 120/122 respectively, first and second electrodes 132e, 132d, third electrode 132b, end terminations 156a, b, and insulating layer 38. The subportions of claims 2-3 are opposite the portions 132a and 132b. In claim 4, the joining is depicted between the two portions of 132b. In claim 5, see col. 7, lines 20-50 for the foil. In claims 7-9, first and second end terminations are in direct contact as claimed, and two layers are depicted.. In claim 11, the insulating layer is 138 which is on the first and second electrodes (even if there is another layer therebetween) and/or it directly touches 53 adjacent the area where it touches the PTC elements 51 so it is "on" there. In claims 23-24, all the electrodes are in electrical communication with each other, and the elements for claim 1 correspond as noted above.

3. Claims 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Kojima et al. (WO98/12715). Kojima discloses the claimed invention at Fig. 5 (the US document which bases priority on '715 is here employed (US6157289)). Claims 23-24 is disclosed as follows:

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first and second polymer PTC elements 14, first and second electrodes 18, third electrode 11, end terminations 20.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 11 rejected under 35 U.S.C. 103(a) as obvious over Barrett in view of Zhang et al. Barrett discloses the claimed invention as noted above with respect to claim 1 except the insulating layer in direct contact with the PTC elements. The insulating layer is 85 of Zhang at Fig. 11 is depicted in direct contact with the PTC element 17 for the purpose of ensuring that the electrode portions of 13 do not short each other. A similar gap 28 of Barrett is disclosed adjacent insulating layer 38 begging to be filled so that the PTC layer is in direct contact with the insulating layer to ensure that the two electrode portions are not shorted, as suggested by Zhang, so that the modification would have been obvious.


6. Applicant's Declaration filed 7/28/0003 with the signed Declaration of 8/13/03 are considered persuasive in overcoming prior art filed on or after July 9, 1998, so that Kojima '879 does not qualify as prior art, as argued. The remaining arguments are moot due to the new grounds of rejection..

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl Easthom whose telephone number is (703) 308-3306. The examiner can normally be reached on M-Th from 6:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad, can be reached on (703) 308-7619. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.


KARL D. EASTHOM
PRIMARY EXAMINER